

NO. 30386

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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LILINOE ELIKAPEKA FORREST, Petitioner,

vs.

THE HONORABLE TRUDY K. T. SENDA, JUDGE OF THE DISTRICT  
COURT OF THE FIFTH CIRCUIT, STATE OF HAWAI'I, Respondent.

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ORIGINAL PROCEEDING  
(CR. NO. 5DTA-09-00373)

ORDER

(By: Moon, C.J., Nakayama, Acoba, Duffy, and Recktenwald, JJ.)

Upon consideration of the petition for a writ of prohibition and mandamus filed by petitioner Lilinoe Elikapeka Forrest and the papers in support, it appears that the February 22, 2010 order denying petitioner's motion to dismiss Cr. No. 5DTA-09-00373 will be reviewable on appeal from a judgment of conviction, if such judgment is entered. Petitioner, if convicted, can appeal from the judgment pursuant to HRS § 641-12 (Supp. 2009) and can seek appellate review of the February 22, 2010 order. Therefore, petitioner is not entitled to extraordinary relief. See State v. Lo, 116 Hawai'i 23, 25, 169 P.3d 975, 977 (2007) ("The extraordinary writ of mandamus [and/or prohibition] is appropriate to confine an inferior tribunal to the lawful exercise of its proper jurisdiction[,] [b]ut [the writ] may not be used to perform the office of appeal." "Thus, this court must determine at the outset whether [the] petitioner

may have a remedy by way of appeal or any other means of relief from the trial court's action."). Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of prohibition and mandamus is denied.

DATED: Honolulu, Hawai'i, March 23, 2010.